

REMARKS

In the Office Action mailed December 24, 2008 the Office noted that claims 1-14 were pending and rejected claims 1-14. Claims 1-3, 5, 6, 9 and 10 have been amended, claims 4, 7, 8 and 11-13 have been canceled, and, thus, in view of the foregoing claims 1-3, 5, 6, 9, 10 and 14 remain pending for reconsideration which is requested. No new matter has been added. The Office's rejections are traversed below.

REJECTIONS under 35 U.S.C. § 102

Claims 1, 3-4, 9-11 and 14 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Jung, U.S. Patent No. 6,254,385. The Applicants respectfully disagree and traverse the rejection with an argument.

The Applicants claim displaying together on a screen the two images separately captured (one of the set-of-teeth and one of a single sample of the coding ring) side by side and without separation in order to enable a user watching the screen to determine the closest color without any additional cooperation of the computer.

The Applicant has amended claim 1 to further recite "with an inhibiting means, automatically controlling at least one of a luminosity and a chrominance of the camera (1)." Support for the amendment may be found, for example, in cancelled claims 7 and 8.

The Applicant has further amended claim 1 to recite "filming the color coding ring (9) and displaying on the screen (7) the image (7b) of at least one sample ( $9_1, 9_2, 9_3 \dots 9_n$ ), so that this image (7b) lies side by side ***joined to each without separation*** with the frozen image (7a) of the set-of-teeth element ***so as to allow the user to visually compare the frozen image (7a) of the set-of-teeth element (3) with the image (7b) of the sample.***" Support for the amendment may be found, for example, in cancelled claim 4. The Applicants submit that no new matter has been added by the amendment of claim 1. Claim 9 has been amended in a similar manner.

In contrast, in Jung, the capture of the image illustrated in figure 26 is realized in a single video frame. Furthermore, the aim of the use of calibration chart is to correct colors as disclosed in col. 33, lines 58-62 or in col. 34, lines 13-15 or lines 41-45 in the images captured in the same time as the calibration chart 404.

In Jung, it is even discussed that the calibration chart is found and positioned by computer within the video frame (col.34, lines 2-5) in order to be able to compare the positioned colors of the calibration chart 404 with the colors on the image (col. 34, lines 5-13). As a direct consequence, it is necessary that several samples of the calibration chart are displayed.

The color adjusted video data are then used in the prosthesis preparation (col.34, lines 18-19). Such adjustments of

the colors are realized according to the principles disclosed with a reflectometer in other parts of Jung. No human intervention is disclosed nor suggested.

Thus, it is never disclosed to display an image of the set-of-teeth and an image of a single sample of the calibration chart side by side joined to each other without separation in order to simply enabling a user to compare the colors of these two displayed images.

Further, it is not disclosed to use the inhibition of the automatic control of chrominance and/or luminance in the particular context of displaying two separately captured images, such a display being proposed in order for a user watching the images to compare the colors of these images directly on each side of the line between the two images displayed in purpose joined to each other and without separation.

Withdrawal of the rejections is respectfully requested.

REJECTIONS under 35 U.S.C. § 103

Claims 2, 5-8 and 12-13 stand rejected under 35 U.S.C. § 103(a) as being obvious over Jung. The Applicants respectfully disagree and traverse the rejection with an argument.

The Applicant submits that the independent claims are allowable for the reasons discussed above. Therefore the dependent claims are likewise allowable.

Withdrawal of the rejections is respectfully requested.

SUMMARY

It is submitted that the claims satisfy the requirements of 35 U.S.C. §§ 102 and 103. It is also submitted that claims 1-3, 5, 6, 9, 10 and 14 continue to be allowable. It is further submitted that the claims are not taught, disclosed or suggested by the prior art. The claims are therefore in a condition suitable for allowance. An early Notice of Allowance is requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

/James J. Livingston/  
James J. Livingston, Jr.  
Reg.No. 55,394  
209 Madison St, Suite 500  
Alexandria, VA 22314  
Telephone (703) 521-2297  
Telefax (703) 685-0573  
(703) 979-4709

JJL/fb